

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) 2:14-CR-053-GMN-(CWH)
WILLARD P. WITHAM, SR.,)
Defendant.)

FINAL ORDER OF FORFEITURE

On July 11, 2014, the United States District Court for the District of Nevada entered an Amended Preliminary Order of Forfeiture pursuant to Fed. R. Crim. P. 32.2(b)(1) and (2); Title 18, United States Code, Section 924(d)(1) and (2)(C) and Title 28, United States Code, Section 2461(c); Title 21, United States Code, Section 853(a)(1) and (a)(2); and Title 21, United States Code, Section 881(a)(11) and Title 28, United States Code, Section 2461(c) based upon the plea of guilty by defendant WILLARD P. WITHAM, SR. to the criminal offense, forfeiting the property set forth in the Plea Agreement and the Forfeiture Allegations of the Indictment and shown by the United States to have the requisite nexus to the offense to which defendant WILARD P. WITHAM, SR. pled guilty. Indictment, ECF No. 11; Change of Plea, ECF No. 41; Plea Agreement, ECF No. 42; Amended Preliminary Order of Forfeiture, ECF No. 48.

This Court finds the United States of America published the notice of forfeiture in accordance with the law via the official government internet forfeiture site, www.forfeiture.gov, consecutively from July 18, 2014, through August 16, 2014, notifying all potential third parties; and notified known

1 third parties by personal service or by regular mail and certified mail return receipt requested, of their
2 right to petition the Court. Notice of Filing Proof of Publication, ECF No. 60.

3 On October 17, 2014, and October 21, 2014, the United States Marshals Service attempted to
4 personally serve Jared Beard, with copies of the Preliminary Order of Forfeiture and the Notice but
5 was unsuccessful. Notice of Filing Service of Process – Personal Service, ECF No. 85, p. 2-18.

6 On October 17, 2014, the United States Marshals Service attempted to personally serve Terry
7 Mitchell, with copies of the Preliminary Order of Forfeiture and the Notice but was unsuccessful.
8 Notice of Filing Service of Process – Personal Service, ECF No. 85, p. 19-35.

9 On November 13, 2014, and November 20, 2014, the United States Marshals Service
10 attempted to personally serve Terry Mitchell, with copies of the Preliminary Order of Forfeiture and
11 the Notice but was unsuccessful. Notice of Filing Service of Process – Personal Service, ECF No. 85,
12 p. 36-52.

13 On December 22, 2014, FBI Special Agent Justin I. Nwadiashi declared that despite multiple
14 data base checks he was unable to locate Jared Beard or Terry Mitchell. Notice of Filing Service of
15 Process – Personal Service, ECF No. 85, p. 53-54.

16 On October 16, 2014, the United States Attorney’s Office served Frederick Killion, with
17 copies of the Preliminary Order of Forfeiture and the Notice through regular and certified mail, return
18 receipt requested. Notice of Filing Service of Process – Mailing, ECF No. 86, p. 4-22.

19 On October 16, 2014, the United States Attorney’s Office served Hoa Vanle, with copies of
20 the Preliminary Order of Forfeiture and the Notice through regular and certified mail, return receipt
21 requested. Notice of Filing Service of Process – Mailing, ECF No. 86, p. 4-19, 23-25.

22 On October 16, 2014, the United States Attorney’s Office attempted service on Jared Beard,
23 with copies of the Preliminary Order of Forfeiture and the Notice through regular and certified mail,
24 return receipt requested but was unsuccessful. The postal service stated that the mailings were
25 “attempted – not known” and that they were “unable to forward” them. Notice of Filing Service of
26 Process – Mailing, ECF No. 86, 4-19, 26-29.

1 This Court finds no petition was filed herein by or on behalf of any person or entity and the
2 time for filing such petitions and claims has expired.

3 This Court finds no petitions are pending with regard to the assets named herein and the time
4 for presenting such petitions has expired.

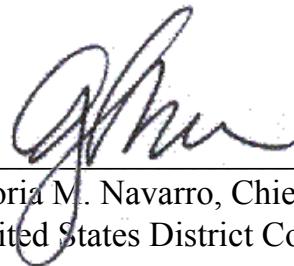
5 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all right,
6 title, and interest in the property hereinafter described is condemned, forfeited, and vested in the
7 United States of America pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Title 18, United States
8 Code, Section 924(d)(1), (2)(C), (3)(B), and (3)(C) and Title 28, United States Code, Section 2461(c);
9 Title 21, United States Code, Section 881(a)(11) and Title 28, United States Code, Section 2461(c);
10 and Title 21, United States Code, Section 853(a)(1), (a)(2), (n)(7), and (p) and shall be disposed of
11 according to law:

- 12 1. one (1) Taurus .38 caliber revolver bearing manufacturer's serial number LC40499;
- 13 2. one (1) Taurus model PT 740 .40 caliber semi-automatic handgun bearing manufacturer's
14 serial number SDT94901;
- 15 3. one (1) Kel-Tec model PF-9 9 millimeter semi-automatic handgun bearing manufacturer's
16 serial number S3Y89;
- 17 4. one (1) Smith & Wesson model SD40VE .40 caliber semi-automatic handgun bearing
18 manufacturer's serial number HED2760;
- 19 5. any and all ammunition;
- 20 6. \$290.00 in United States Currency;
- 21 7. \$2,810.00 in United States Currency; and
- 22 8. an *in personam* criminal forfeiture money judgment of \$14,570 in United States Currency.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited funds,
24 including but not limited to, currency, currency equivalents, certificates of deposit, as well as any
25 income derived as a result of the United States of America's management of any property forfeited
26 herein, and the proceeds from the sale of any forfeited property shall be disposed of according to law.

1 The Clerk is hereby directed to send copies of this Order to all counsel of record and three
2 certified copies to the United States Attorney's Office.

3 **DATED** this 26th day of January, 2015.

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Gloria M. Navarro, Chief Judge
United States District Court

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PROOF OF SERVICE

I, Mary Stoltz, Forfeiture Support Associates Paralegal, certify that the following individuals were served with copies of the Notice of Filing Proof of Publication on January 7, 2015, by the below identified method of service:

Electronic Filing

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/s/ Mary Stolz
Mary Stolz
Forfeiture Support Associates Paralegal